

BILL

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1 A bill to be entitled
2 An act relating to Lee County; creating the Captiva
3 Island Conservation Area; providing legislative
4 intent; providing limitation on height and density of
5 certain structures with the conservation area;
6 restricting the commercial, industrial or multi-family
7 use of land to those lands zoned for such uses prior
8 to the effective date of this act; providing
9 application; providing for enforcement; providing
10 severability; designating the act as Captiva Island
11 Conservation Area Act; requiring a referendum;
12 providing an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

15 Section 1. The Legislature of the State of Florida hereby
16 finds that Captiva Island is a fragile barrier island of
17 particular natural beauty containing abundant plant, marine,
18 animal and bird life; that the island has limited
19 infrastructure, hurricane evacuation routes, water resources,
20 wastewater systems and environmental resources; that
21 conservation of the island is in the best interest of Captiva
22 Island property owners, the citizens of Lee County, and the
23 State of Florida; and that the extent to which development of
24 the island is permitted to occur will have a substantial impact
25 on the ecology and natural beauty of the island and the water

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26 quality of the surrounding Pine Island Sound and Gulf of Mexico.
27 In order to preserve and conserve the fragile ecosystems and
28 natural characteristics of the island, it is necessary to
29 restrict the land uses and the height and density of structures
30 and to limit noise, light, water and air pollution. The purpose
31 of this act is to permit limited development of the island while
32 preserving its natural beauty and plant, marine, animal and bird
33 life, its mangrove fringe, and its sustainability.

34 Section 2. There is hereby created a special conservation
35 area, for the uses and purposes set forth herein, known as the
36 Captiva Island Conservation Area. The boundaries of the district
37 shall include all of Captiva Island in Lee County, including all
38 adjacent submerged lands, tidal lands, overflow lands, and tidal
39 ponds.

40 Section 3. ~~(1) No building or other structure shall be~~
41 ~~erected or altered within the district so that the peak of the~~
42 ~~roof is more than 28 feet base flood elevation.~~
43 The height of buildings and structures may not exceed the least
44 restrictive of the two following options:

45 (1) Thirty-five feet above the average grade of the lot in
46 question or 42 feet above mean sea level measured to the
47 peak of the roof, whichever is lower; or

48 (2) Twenty-eight feet above the lowest horizontal member at
49 or below the lawful base flood elevation measured to the
50 mean level between eaves and ridge in the case of gable

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hip and gambrel roofs.

(2) The density of any development which includes dwelling units, whether or not it includes commercial rental dwelling units ~~such as hotels or motels~~, shall not exceed 3 dwelling units per acre. In computing such density, only land above mean sea level, contiguous and under single ownership may be utilized. Parcels which are bisected by a publicly dedicated road, including state and county roads, shall not be considered contiguous for the purpose of computing density hereunder.

(3) A single-family dwelling may be constructed on lands zoned for such use, including lots which were platted and recorded prior to the effective date of this act or lands rezoned for single family use after the effective date of this act. Notwithstanding, the use of nonconforming lots shall be governed by local zoning regulations.

(4) No land within the district shall be used for commercial, industrial, or multi-family purposes except land that was zoned for such uses prior to the effective date of this act. Nothing contained in this act shall preclude maintenance of fuel supply facilities at existing ports or off-loading facilities.

(5) This section shall not render legally existing structures unlawful ~~or prohibit the right to build back nonconforming buildings damaged by natural disaster in compliance with updated federal flood elevations without a~~

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76 reduction in use, density, intensity, size or square footage of
77 the damaged buildings.

78 Section 4. (1) This act shall not be construed as limiting
79 the application of or repealing any local comprehensive land use
80 plan, law, or rule dealing with the subject of zoning,
81 conservation, or air and water pollution standards; but if any
82 of the standards specified by this act are more restrictive than
83 those specified in such other plan, law, or rule, the standards
84 specified by this act shall prevail.

85 (2) No local government body may grant variances or
86 exceptions to the height, density, or other requirements of this
87 act.

88 (3) In order to enforce the provisions of this act and/or
89 to enjoin a violation of same, a real property owner need not
90 allege or prove that the violation of this act will adversely
91 affect the property rights of said real property owner to any
92 greater extent or different degree than said violation will
93 affect any other real property owner within the district. A real
94 property owner who is successful in his or her efforts to
95 enforce this act through civil proceedings shall be awarded a
96 reasonable attorney's fee and court costs which shall be
97 assessed as a judgment against the person or persons determined
98 by the court to have violated this act. No action by any county
99 commission shall be required as a condition precedent to
100 enforcement of this act pursuant to this section.

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101 Section 5. If any provision of this act or the application
102 thereof to any person or circumstance is held invalid, the
103 invalidity shall not affect other provisions or applications of
104 the act which can be given effect without the invalid provision
105 or application, and to this end the provisions of this act are
106 declared severable.

107 Section 6. This act shall be known and cited as the Captiva
108 Island Conservation Area Act.

109 Section 7. (1) During the 2024 general election, there
110 shall be a referendum election concerning whether this act shall
111 become a law.

112 (2) The ballot title for the referendum question shall be
113 in substantially the following form:

114 CREATING CAPTIVA ISLAND CONSERVATION AREA

115 (3) The referendum question shall be placed on the ballot
116 in substantially the following form:

117 Shall Chapter 2024- , Laws of Florida, creating the
118 Captiva Island Conservation Area, limiting the height of certain
119 structures, limiting the density of dwelling units, and limiting
120 commercial, industrial, or multi-family zoning those areas zoned
121 for that purpose on the effective date of the act?

122 () Yes.

123 () No.

124 (4) The referendum election shall be conducted by the
125 Supervisor of Elections of Lee County in accordance with the

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126 Florida Election Code.

127 Section 8. This act shall take effect upon approval by a
128 majority vote of qualified electors in the proposed Captiva
129 Island Conservation Area voting in a referendum to be held at
130 the 2024 general election, except section 7 and this section
131 shall take effect upon becoming a law.